

BEFORE THE BOARD OF LIVESTOCK
STATE OF MONTANA

In the matter of the adop-)
tion of rules relating to) NOTICE OF PUBLIC HEARING
the dating of milk and) (Milk Freshness Dating)
liquid dairy products con-)
tainers for freshness.)

TO: All Interested Persons

1. On March 13, 1980, beginning at 10:00 a.m. a hearing will be held in the auditorium of the Scott Hart Building, Sixth Avenue and Roberts Street, Helena, Montana, to consider the adoption of rules relating to the dating of fluid milk and fluid milk products for freshness.

2. The proposed rules do not replace or modify any rules presently contained in the Administrative Rules of Montana.

3. The proposed rules read as follows:

Rule I. SCOPE OF RULES

These rules apply to whole milk, low fat milk, nonfat milk, buttermilk, chocolate milk, whipping cream, half and half and or any other liquid milk product designed to be consumed in the form in which it is packaged. For purposes of [these rules] "milk" means any of the above products.

Rule II. TIME FROM PROCESSING THAT FLUID MILK MAY BE SOLD FOR HUMAN CONSUMPTION

(1) No grade A pasteurized milk may be sold, offered for sale, or otherwise disposed of for human consumption at retail or wholesale more than [8 through 14] days after pasteurization.

(2) No grade A raw milk may be sold, offered for sale, or otherwise disposed of for human consumption at retail or wholesale more than [8 through 14] days after the milk is bottled.

(3) For purposes of this rule [8 through 14] days after pasteurization or bottling means the midnight closest to [192 through 336] hours following the hour that pasteurization or bottling of the milk is completed.

Rule III. LABELING OF MILK CONTAINERS TO SHOW LAST DAY OF LEGAL SALE

(1) Each container into which grade A pasteurized or grade A raw milk is placed for sale for human consumption must be marked with a pull date. The pull date will state in arabic numerals or standard abbreviations for months, the month and day which is the last day the milk may be sold as set forth in rule II.

(2) Language in substance the same as "sell by" or "not to be sold after" must be placed by the date in a

manner which clearly shows that the milk must be sold by the date on the container.

Alternative A, Rule III. LABELING OF MILK CONTAINERS AS TO DATE OF FILL.

(1) Each container into which grade A pasteurized or grade A raw milk is placed for sale for human consumption must be marked with the date the container was filled. The fill date will, in arabic numerals or using standard abbreviations for months, state the month and day the milk was processed and placed in the container.

(2) Language in substance the same as "filled on" must be placed by the date in a manner which clearly shows that the date on the container is the date when the container was filled.

Alternative B, Rule III. LABELING OF MILK CONTAINERS TO SHOW DATE OF FILL AND LAST DATE OF LEGAL SALE

(1) Each container into which grade A pasteurized or grade A raw milk is placed for sale for human consumption must be marked both with a processing date and a pull date. Each date must be stated in arabic numerals or standard abbreviations for months, and show, respectively, the date on which the container was filled and the date which is the last day of legal sale.

(2) Language in substance the same as "filled on" must be placed by the fill date in a manner which clearly shows that date to be the date when the container was filled.

(3) Language in substance the same as "sell by" or "not to be sold after" must be placed by the pull date in a manner which clearly shows that the pull date is the last date by which the milk may be sold.

Rule IV. EXEMPTION FROM LABELING REQUIREMENT

(1) Licensed grade A raw milk dairies are exempt from the labeling requirements imposed by [Rule III or its alternatives] when all milk packaged for human consumption is sold directly to the consumer either at the licensed retail raw dairy or through a delivery route directly operated by the licensed retail raw dairy.

Rule V. MANNER, POSITIONING, AND SIZE OF LABELING

(1) Labels required by [Rule III or its alternatives] must be of a color clearly contrasting with the area immediately surrounding the label. The labels may be put on by printing, stamping, or burning, a combination of any of those methods, or by some other method specifically approved in writing by the department.

(2) Labels placed on "pure paks" or similar containers must be located on the top sealing fin. Labels on molded plastic jugs may be placed anywhere on the upper half of the container (or on the printed product label) except the lid. Labels for containers shall be at least 1/8 inch

in height.

(3) All characters in the labels required by [Rule III or its alternatives] must be at least 1/8 inch in height.

Rule VI. WHEN MILK OFFERED FOR SALE SUBJECT TO SEIZURE

(1) Milk offered for sale contrary to the provisions to [Rule II or III] may be seized and destroyed by agents of the department of livestock.

4. These rules are proposed for adoption to assure that the consumer may determine the freshness of milk or liquid milk products offered for sale by having each container of those products dated as to freshness. The current practice of most dairy plants is to indicate the date after processing by which their products should be removed from the shelves by putting numbers or standard abbreviations for the months and day on the containers. A representative sampling of such containers made by the Milk Control Board of the Department of Business Regulation in June 1979 showed that such dates varied by more than a week, and that in many instances the dates were unreadable because they were illegible or because they were part of a code.

The exemption provided in Rule IV is proposed because retail raw dairies selling directly to consumers frequently use reuseable glass containers to market their products. Because such containers are generally moist on the outside during both the bottling and marketing process, which would cause any stamped or posted label to come loose, and because no middlemen are involved in the type of marketing a retail raw dairy must make to qualify for the exemption, the department believes the labeling requirement in this situation is unnecessary and will not benefit the consumer.

The Department anticipates that if these rules are adopted many dairy plants will need to retool to provide the information required. Persons opposed to the rules for that reason are requested to provide reliable facts and figures showing the costs of such retooling, and facts and figures showing the volume of their products processed and sold.


Among other issues to be considered are the number of days following processing that the products covered by this notice may be exposed to sale; whether the dating should be based on fill date, pull date, or both; whether language to the effect of "filled on" or "sell by" should accompany the date; the nature of penalties to enforce the rules; the positioning of the labels; the manner and size of labeling; and in the alternative, whether these rules are required at all. The scope of this hearing is intended to be broad so that the rules may be modified or totally redrawn to reflect the input received. The department hopes that input will be received from consumers and consumer groups as well as parts of the dairy industry.

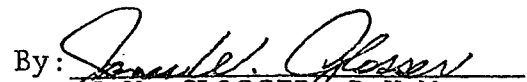
5. Interested persons may present their data, views, or arguments either orally or in writing at the hearing.

Written data, views, or arguments may also be submitted to Mike McCarter, Agency Legal Services Bureau, Department of Justice, State Capitol, Helena, Montana, by March 13, 1980.

6. Mike McCarter, Agency Legal Services Bureau, Department of Justice, State Capitol, Helena, Montana, has been designated to preside over and conduct the hearing.

7. The authority of the Department of Livestock to adopt these rules is based on Section 81-2-102 MCA, and the rule implements that section.


ROBERT G. BARTHELMESS
Chairman, Board of Livestock

By: 
JAMES W. GLOSSER, D.V.M.
Administrator & State Veterinarian

Certified to the Secretary of State January 22, 1980.